IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

CRP.No. 858 of 2006()

OPEA.740/2002 of ADDL.DIST. COURT,ALAPPUZHA.

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REVN. PETITIONER: RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE,NANGIARKULAGARA,
KAYAMKULAM,REP. BY ITS ,MANAGER.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENT: PETITIONER

RAJAMANI,
D/O.PRABHAVATHY,PANICKATHY,KOODIKKAKKOM,
CHINGOLI VILLAGE
& NOW RESIDING AT RAJAMANGALATHU,
MAHADEVIKAD.

BY ADV. SRI.T.B.RAMANI
SRI.M.S.UNNIKRISHNAN
SRI.T.R.RAJESH
SRI.M.R.ANISON

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.858 of 2006

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Dated this the 15th day of November, 2007.

ORDER

This revision petition is preferred against the order of the Additional district Judge, Alappuzha in O.P.(EA) No.740 of 2002. By the said order the court below has passed an order enhancing the compensation by 2,22,004/- with 9% interest. A perusal of paragraph 8 of the award will reveal that the court relied upon the decision of a Full Bench of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542 wherein this Court held that the annual return is to be adopted at 5%. In the decision reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T.1 the Apex Court held that each case has to be decided on the facts and circumstances of that case. The Apex Court also held thus:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore,

in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So in the light of the above observations, it may be necessary to have additional particulars and additional evidence to decide the matter in accordance with law. Therefore the order under challenge is set aside and the matter is remitted back to the court below for fresh disposal after affording equal opportunity to both the parties to produce documentary as well as oral evidence in support of their respective contentions and dispose of the matter in accordance with law in the light of the principles laid in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T.1. Parties are directed to appear before the court below on 3.12.2007.

Civil Revision Petition is disposed of as accordingly.

M.N.Krishnan,
Judge.

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